

# The Impact of COVID-19 on Special Education Services in California

**Office of Clients' Rights Advocacy (OCRA)**  
Disability Rights California

# WHAT ARE THE TRAINING OBJECTIVES?

- Learn about rights to special education services during the COVID-19 pandemic.
- Learn about recent changes to the special education timelines school districts must follow during the COVID-19 pandemic.

# **OFFICE OF CLIENTS' RIGHTS ADVOCACY (OCRA) Disclaimer**

- OCRA is a mandated reporter and obligated to report abuse and neglect of disabled adults.
- There is no right to confidentiality for anything you say or discuss during this presentation. Please do not share any private or confidential information.
- This presentation is solely for public information. It is not a private consultation for legal advice. No Attorney-Client relationship is formed between OCRA and you.

**RIGHTS OF STUDENTS WITH  
DISABILITIES DURING THE COVID-19  
PANDEMIC**

# **SERVICE DELIVERY MUST STILL BE INDIVIDUALIZED**

- Work with teachers and districts to identify the most effective teaching style for the student.
- For some students, telephone or online/video conferencing instruction or services may work for them
- Services may be provided at a school site or in the home, depending on the needs of your child, and health of other students and staff.

# CAN SERVICES BE PROVIDED AT HOME?

Yes.

- As a result of an order or guidance from public health officer during emergency (i.e., COVID-19 crisis); or
- Students that are medically fragile; or “would be put at risk”; or self quarantining.

\*Essential Workers include but not limited to physical and occupational therapists and behavioral health workers and speech pathologists.

# **DO ALL IEPs HAVE TO BE MODIFIED TO REFLECT CHANGE IN DISTANCE LEARNING?**

No.

Not necessary for school districts to convene an IEP team meeting solely for the purpose of discussing the need to provide services away from school due to the COVID-19 pandemic.

\*This does not mean that parents cannot request an IEP to discuss the individual needs of the student at home. IEPs must be scheduled within 30 days of request. The meetings may be held virtually or by phone.

# WHAT IF THE SCHOOL ONLY PROVIDES LIMITED SPECIAL EDUCATION SERVICES?

- It is important to protect your child's existing IEP for when the schools reopen.
- You have the right to provide "limited consent" to a temporary plan. You can agree to implement the temporary plan offered by the school district, without waiving your child's IEP or your child's right to compensatory services.

# **WHAT IF MY CHILD'S SCHOOL IS CLOSED OR REFUSES TO PROVIDE SPECIAL EDUCATION?**

If your school is not providing special education services during a school closure, your child may be entitled to compensatory education services.

Keep a journal of the special education or 504 plan services your child missed as a result of the school closure and request an IEP or 504 plan meeting to discuss compensatory services.

- Compensatory services are made on an individualized basis.
- Keep contemporaneous notes.
- You will not necessarily get compensatory hours for all time missed.

# **CAN I REQUEST REIMBURSEMENT FROM DISTRICT FOR COST OF SERVICES PROVIDED DURING SCHOOL CLOSURE?**

- Law not clear on this issue.
- If parent decides to try they should provide the district with written notice of the intention to seek reimbursement for the cost of services funded by the family.
- Notice should be sent to District's Special Education Director at least 10 business days prior to services commencing in the home.

# **WHAT IF I DISAGREE WITH SERVICES OFFERED BY THE DISTRICT DURING THE COVID-19 PANDEMIC?**

You have a right to file a complaint or request a due process hearing if you disagree with the school district.

**CHANGES TO SPECIAL EDUCATION  
TIMELINES IN CALIFORNIA DURING  
COVID-19**

# GENERAL INFORMATION ON TIMELINES

- Schools are still required to comply with the timelines in IDEA.
- The U.S. Department of Education and California Department of Education have provided guidance to gives schools some flexibility with the timelines.
- On March 17, 2020, the California Legislature passed SB 117, which waives several state special education timelines.

# U.S. DEPARTMENT OF EDUCATION GUIDANCE ON TIMELINES

- Schools must still convene IEP meetings within 30 days of a parent's request and review IEPs at least annually. However, parents and an IEP Team may agree to conduct IEP meetings through alternate means, including videoconferencing or conference telephone calls.
- A parent may agree to not convene an IEP Team meeting for the purposes of making changes to the IEP, and instead develop a written document to amend or modify the child's current IEP.

# **U.S. DEPARTMENT OF EDUCATION GUIDANCE ON TIMELINES CONTINUED**

- An initial evaluation must be conducted within 60 days of receiving parental consent under IDEA.
- A reevaluation of each child with a disability must still be conducted at least every three years.

# CALIFORNIA DEPARTMENT OF EDUCATION (CDE) GUIDANCE ON TIMELINES

- The California Department of Education is continuing to accept IDEA compliance complaints, but is extending the 60-day investigation period by the length of any school site closure during the stated emergency.
- California's system for due process hearings and mediation through the Office of Administrative Hearings (OAH) remains operational. Prehearing conferences, mediations and hearings will be held by video conferencing. Filing documents may be done by electronically, mail, or special arrangement (in person drop off).

# **SPECIAL EDUCATION TIMELINES THAT SB 117 WAIVED**

- The right to receive an assessment plan within 15 days after your child is referred for a special education assessment.
- The right to receive copies of your child's school records within 5 business days after a request, before any IEP meeting, or before any due process hearing or resolution session.

# **SPECIAL EDUCATION TIMELINES THAT SB 117 WAIVED CONTINUED**

- When your child enrolls in a new school district, the right to have your former school district send your child's records to the new one within 5 business days.

# **SPECIAL EDUCATION TIMELINES THAT SB 117 WAIVED CONTINUED**

- These timelines will start again once schools reopen and the regular school session starts again. SB 117 considers your school “closed” even if it offers independent study, distance learning, or both.
- The special education timelines that SB 117 waives are state law requirements. SB 117 does not waive any federal requirements imposed under IDEA.

# **DISTANCE LEARNING**

- California Governor approved SB 98 on June 29, 2020 that sets minimum standards for distance learning.
- School districts must implement IEPs during distance learning.

# DISTANCE LEARNING CONTINUED

On distance learning for the 2020–21 school year, California Education Code 43503 says:

- May be offered when (1) there is an order or guidance from a state or local public health officer or (2) students who are medically fragile; or would be put at risk by in-person instruction, or who are self-quarantining because of exposure to COVID-19.
- Provide nutritionally adequate meals who are eligible for free and reduced-price meals whether engaged in in-person instruction or distance learning for each day of the scheduled school year (pending an approved waiver from Department of Agriculture)

# DISTANCE LEARNING CONTINUED

- **Must include:**

- (1) Access to internet connectivity and communication devices.

- (2) Content to grade level standards.

- (3) Academic and other supports designed to address the needs of students not performing at grade level, or need support in other areas (e.g. English learners, exceptional needs, mental health supports, etc.)

- (4) Special education, related services, and any other services required by IEP including supplementary aids and services, transition services extended school year services with accommodations necessary to ensure that IEP can be executed in a distance learning environment.**

- (5) Integrated instruction in English language development for English learners.

- (6) Daily live interaction with certificated employees and peers for purposes of instruction, progress monitoring, and maintaining school connectedness.

# CALIFORNIA'S PANDEMIC PLAN FOR LEARNING AND SAFE SCHOOLS

Governor's plan for learning and safe schools for the 2020–2021 school year:

1. Safe in-person school based on local health data.
2. Strong mask requirements for anyone in the school.
3. Physical distancing requirements & other adaptations.
4. Regular testing and dedicated contact tracing for outbreaks at schools.
5. Rigorous distance learning.

<https://www.gov.ca.gov/2020/07/17/governor-gavin-newsom-lays-out-pandemic-plan-for-learning-and-safe-schools/>

Updated July 17, 2020

# State Guidelines – 8/25/2020

Health and safety practices needed to prevent the spread of  
COVID-19

- Groups of a maximum of 14 students each; no more than 2 supervising adults per group.
- Group may not interact with other groups.
- Each group kept separate during activities like exercise, art, and music.
- Supervising adults must work solely with one group.

# State Guidelines – 8/25/2020

Health and safety practices needed to prevent the spread of  
COVID-19

- Adults and students must wear face coverings.
- Physical distancing of students in one group should be balanced with developmental and socio-emotional needs of the age group.
- One-to-one specialized services can be provided to a student by a support service provider that is not part of the group.

# Learning Continuity and Attendance Plan (LCAP)

## LCAP Purpose (part of SB 98)

- The Learning Continuity and Attendance Plan explains how student learning will be addressed during the COVID-19 crisis for the 2020-2021 school year.
- Each district must create a plan by 9/30/2020.

# LCAP – Examples of Some Key Provisions School District Must Address

- Actions to offer classroom-based instruction whenever possible, particularly for students experiencing significant learning loss.
- Additional supports for students with exceptional needs when distance learning provided.
- How learning status will be measured in math and language development.
- Actions to address learning loss and accelerate learning progress.

**PRACTICAL TIPS TO SETTING UP A  
SUCCESSFUL EDUCATIONAL  
ENVIRONMENT DURING COVID-19**

# COMMUNICATION

- Keep in close contact with the IEP team.
- Share what is working and what is not.
- Consider not only the student's needs, but also consider a family's unique needs.
- Schedule regular check-ins with teachers to discuss how things are going.

# IEP GOALS

- Prioritize goals.
- Relate goals to activities at home.
- Make changes as needed.

**CAN REGIONAL CENTERS HELP  
STUDENTS DURING THE COVID-19  
PANDEMIC?**

# REGIONAL CENTER HELP

- Under the Lanterman Act, regional centers are considered to be the payer of last resort.
- Regional center clients must exhaust all generic resources. School districts are considered a generic resource.
- If you are having difficulty securing services from a school district, you can contact the regional center for possible help.

# REGIONAL CENTER HELP DURING COVID-19

- The Department of Developmental Services recognizes that to ensure the health, welfare and safety of regional center consumers and the general population, there may be instances where consumers, regional centers, and service providers will need flexibility to receive and provide services and supports.
- To request assistance, contact your child's service coordinator to schedule an IPP meeting. Meetings must be held within 30 days of request. Given the circumstances, you can request an emergency IPP meeting.

# Department of Developmental Services

- **My child is at home and not in school (etc.) and I need help. What services are available to help me?** If your school closes, or if your regional center services are impacted due to the COVID-19 outbreak, please contact your service coordinator to discuss options for additional services and supports based on your individual needs. You can also talk to your service coordinator about receiving services in an alternative way.
- **Can a regional center purchase educational services for children over age three during the school closure caused by a COVID-19 outbreak?** For regional center eligible consumers, an exemption may be granted on an individual basis in extraordinary circumstances to permit the purchase of educational services.

<https://www.dds.ca.gov/corona-virus-information-and-resources/>

*Last Updated 6/16/2020*

# **WHAT IF THE REGIONAL CENTER DENIES YOUR REQUEST FOR A SERVICE?**

- Provide documentation to the regional center that the school district refuses to provide a requested service.
- If the regional center refuses to provide the requested service, request a Notice of Action (NOA). A Regional center must provide a NOA within 5 working days of its decision to deny a service request.

**QUESTIONS?**

# HELPFUL RESOURCES

## **U.S. Department of Education**

<https://www.ed.gov/coronavirus?src=feature>

## **California Department of Education**

<https://www.cde.ca.gov/ls/he/hn/specialedcovid19guidance.asp>

## **Department of Developmental Services**

<https://www.dds.ca.gov/corona-virus-information-and-resources/>

## **Disability Rights California**

<https://www.disabilityrightsca.org/post/coronavirus-education-timelines>

# **OFFICE OF CLIENTS' RIGHTS ADVOCACY (OCRA)**

**Who We Are:** OCRA is a program of Disability Rights California. We are funded through a contract with the California Department of Developmental Services. OCRA provides free legal information, advice, and representation to regional center consumers or clients. We have a Clients' Rights Advocate (CRA) designated for each regional center.

**Where We Are Located:** OCRA is located near each of California's 21 regional centers.

**OCRA is independent of regional centers.**

# DOES OCRA HELP EVERYONE WHO CALLS?

- Yes. OCRA will help everyone who calls with client (regional center consumer) permission, but type of assistance will vary. Clients may receive:
  - Information and Referral
  - Counsel and Advice
  - Brief Service
  - Evaluation and Assessment
  - Technical Assistance
  - Direct Representation
- OCRA has limited resources.